

# **EXHIBIT F**

**[DISCUSSION DRAFT]**

117<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R.** \_\_\_\_\_

To amend the Electronic Fund Transfer Act to treat fraudulently induced electronic fund transfers in the same manner as unauthorized electronic fund transfer, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

M\_\_\_\_. \_\_\_\_\_ introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

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**A BILL**

To amend the Electronic Fund Transfer Act to treat fraudulently induced electronic fund transfers in the same manner as unauthorized electronic fund transfer, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Protecting Consumers  
5       From Payment Scams Act”.

1 **SEC. 2. TREATMENT OF FRAUDULENTLY INDUCED ELEC-**  
2 **TRONIC FUND TRANSFERS.**

3 (a) **DEFINITIONS.**—Section 903 of the Electronic  
4 Fund Transfer Act (15 U.S.C. 1693a) is amended—

5 (1) in paragraph (7)—

6 (A) by striking subparagraphs (B) and  
7 (E);

8 (B) by redesignating subparagraphs (C)  
9 and (D) as subparagraphs (B) and (C), respec-  
10 tively;

11 (C) in subparagraph (B), as so redesign-  
12 nated, by adding “or” at the end; and

13 (D) in subparagraph (C), as so redesign-  
14 nated, by striking “or” at the end; and

15 (2) by amending paragraph (12) to read as fol-  
16 lows:

17 “(12) the term ‘unauthorized or fraudulently  
18 induced electronic fund transfer’—

19 “(A) means an electronic fund transfer  
20 from a consumer’s account initiated by—

21 “(i) a person other than the consumer  
22 without actual authority to initiate such  
23 transfer; or

24 “(ii) the consumer, if the consumer’s  
25 authorization or initiation of the electronic

1 fund transfer was fraudulently induced;  
2 and

3 “(B) does not include any electronic fund  
4 transfer—

5 “(i) initiated by a natural person  
6 other than the consumer who was fur-  
7 nished with the card, code, or other means  
8 of access to such consumer’s account by  
9 such consumer, unless—

10 “(I) the consumer has notified  
11 the financial institution involved that  
12 transfers by such other person are no  
13 longer authorized; or

14 “(II) the consumer was fraudu-  
15 lently or coercively induced to furnish  
16 the card, code, or other means of ac-  
17 cess;

18 “(ii) initiated by a consumer who has  
19 fraudulent intent, or anyone acting in con-  
20 cert with such a consumer; or

21 “(iii) which constitutes an error com-  
22 mitted by a financial institution.”.

23 (b) DEFINITION OF ERROR.—Section 908(f) of the  
24 Electronic Fund Transfer Act (15 U.S.C. 1693f(f)) is  
25 amended—

1 (1) in paragraph (2), by inserting “, including  
2 an error made by a consumer” before the semicolon;  
3 (2) by redesignating paragraphs (6) and (7) as  
4 paragraphs (7) and (8), respectively; and  
5 (3) by inserting after paragraph (5) the fol-  
6 lowing:

7 “(6) the consumer’s inability to access funds in  
8 a frozen, closed, or otherwise inaccessible account,  
9 except as required by a court order or law enforce-  
10 ment or unless the consumer obtained the funds  
11 through unlawful or fraudulent means;”.

12 (c) CONSUMER LIABILITY FOR UNAUTHORIZED  
13 TRANSFERS.—Section 909 of the Electronic Fund Trans-  
14 fer Act (15 U.S.C. 1693g) is amended—

15 (1) in the heading, by striking “**unauthor-**  
16 **ized transfers**” and inserting “**unauthorized**  
17 **or fraudulently induced electronic fund**  
18 **transfer**”;

19 (2) in subsection (a)—

20 (A) by striking “unauthorized transfer”  
21 and inserting “unauthorized or fraudulently in-  
22 duced electronic fund transfer”; and

23 (B) by inserting “fraudulently induced  
24 transfer or” before “loss or theft” each place  
25 such term appears;

1 (3) in subsection (b)—

2 (A) by striking “financial institution to  
3 show that” and inserting “financial institu-  
4 tion—

5 “(1) to show that”;

6 (B) by striking “was authorized or, if the  
7 electronic fund transfer was unauthorized, then  
8 the burden of proof is upon the financial insti-  
9 tution” and inserting “was authorized or was  
10 not fraudulently induced, as applicable; or

11 “(2) if the showing under paragraph (1) is not  
12 made,”; and

13 (C) by striking “, if the transfer was initi-  
14 ated after the effective date of section 905,”;

15 (4) by striking “unauthorized electronic fund  
16 transfer” each place such term appears and insert-  
17 ing “unauthorized or fraudulently induced electronic  
18 fund transfer”;

19 (5) by striking “unauthorized electronic fund  
20 transfers” each place such term appears and insert-  
21 ing “unauthorized or fraudulently induced electronic  
22 fund transfers”; and

23 (6) by adding at the end the following:

24 “(f) LIABILITY OF INSTITUTION THAT RECEIVES A  
25 FRAUDULENTLY INDUCED ELECTRONIC FUND TRANS-

1 FER.—If a consumer’s financial institution credits the  
2 consumer’s account for an electronic fund transfer that  
3 was initiated by the consumer but was fraudulently in-  
4 duced, the financial institution that received the transfer  
5 shall be liable to the consumer’s financial institution for  
6 the amount of the credit.”.